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**FISCAL IMPACT STATEMENT**

**LS 6542**

**BILL NUMBER:** SB 140

**NOTE PREPARED:** Apr 11, 2005

**BILL AMENDED:** Mar 24, 2005

**SUBJECT:** Use of Charity Gaming Proceeds.

**FIRST AUTHOR:** Sen. Paul

**FIRST SPONSOR:** Rep. Saunders

**BILL STATUS:** As Passed House

**FUNDS AFFECTED:**     **GENERAL**  
                          **X DEDICATED**  
                          **FEDERAL**

**IMPACT:** State

**Summary of Legislation:** (Amended) *Use of Proceeds and Expense Provisions:* The bill prohibits the Department of State Revenue (Department) from adopting a rule requiring a qualified organization to use a minimum percentage of its gross receipts from allowable events for its lawful purposes. The bill eliminates the Department's authority to set by rule the allowable expenditures of a qualified organization with respect to an allowable event. The bill sets forth the expenses that may be subtracted from gross receipts to determine a qualified organization's net proceeds from an allowable event. Voids certain rules adopted by the department regarding the use of charity gaming proceeds. Voids a rule limiting the amount of rent that may be charged to rent personal property.

*Annual Door Prize License:* The bill authorizes certain nonprofit business organizations to conduct door prize events and authorizes an annual door prize event license.

*Leasing of Certain Personal Property for Raffles:* The bill defines certain items used to conduct raffles as qualified personal property. The bill prohibits the Department from adopting a rule or otherwise limiting the rent that may be charged to lease qualified personal property. The bill provides that a person who leases qualified personal property to a qualified organization is not an operator or a worker for the allowable event. It prohibits the Department from denying a qualified organization's application for a charity gaming license on the basis of the rent charged to the qualified organization to lease qualified personal property.

**Effective Date:** Upon passage.

**Explanation of State Expenditures:** (Revised) *Annual Door Prize License:* The bill establishes a new annual

door prize license, and provides that certain tax exempt business organizations such as business leagues and chambers of commerce are eligible for this license. The bill also provides that other charity gaming organizations are eligible for the new annual door prize license. The Department of State Revenue's current level of resources should be sufficient to implement this new charity gaming license.

**Explanation of State Revenues:** (Revised) *Use of Proceeds and Expense Provisions:* The bill does the following:

- (1) prohibits the Department of State Revenue (DOR) from requiring charity gaming licensees to use a minimum percentage of the gross receipts from charity gaming events for charitable purposes;
- (2) voids existing use of proceeds rules by the DOR;
- (3) repeals the DOR's authority to set the allowable expenditures of a charity gaming licensee for purposes of a charity gaming activities;
- (4) specifies the expenses that a licensee may subtract from its gross gaming receipts to compute its net charity gaming proceeds;
- (5) voids DOR rules that generally limit an organization from paying more \$50 in total for personal property that may be used by the organization to conduct a charity gaming event.

Current law unchanged by the bill limits the use of net charity gaming proceeds to the lawful purposes of the licensee.

The prohibition on use of proceeds rules by the DOR has a fiscal impact to the extent that any such requirements the DOR may otherwise implement in the future, or any expenses a licensee may not be able to subtract in computing net proceeds, causes existing licensees to discontinue charity gaming. If these provisions would result in fewer licensees, this could potentially reduce revenue from charity gaming license fees depending upon whether patrons shift their charity gaming expenditures to other licensees and the impact this has on their gross charity gaming receipts.

The provision of the bill voiding existing use of proceeds rules (45 IAC 18-37 and 45 IAC 18-3-8) has no impact, as the DOR has been enjoined from enforcing these rules by the Marion County Superior Court. This ruling was not appealed by the state.

*Background:* Under current statute, the DOR is authorized to adopt rules: (1) for the establishment, implementation, and operation of allowable charity gaming events; and (2) to set the allowable expenditures of a qualified charitable organization with respect to allowable charity gaming events. Current statute also specifically requires that all net proceeds from allowable charity gaming events must be used for the charitable purposes of the organization. The DOR filed rules on February 28, 2003, that included the minimum use of proceeds requirements (under 45 IAC 18-37 and 45 IAC 18-3-8) specified in the table below.

<b>Annual Charity Gaming Gross Receipts</b>	<b>Percent to be Used for Charitable, Community, or Educational Purposes of the Organization</b>
Less than \$150,000	5%
\$150,000 to \$500,000	8%
More than \$500,000	10%

The rules provided for the suspension or revocation of a charity gaming license in the event an organization doesn't comply with the use of proceeds requirements. Under the rules, suspensions would have lasted for a period of time determined by the DOR, but revocations would have been permanent. On August 9, 2004, Marion Superior Court Judge David J. Dreyer issued an order enjoining the DOR from enforcing the use of proceeds rules. This ruling was not appealed by the state.

*Annual Door Prize License:* The bill establishes an annual door prize license authorizing a qualified organization to conduct door prize events on more than one occasion during the year. The annual door prize license could be obtained by bona fide civic, educational, political, religious, senior citizens, or veterans organizations currently eligible for charity gaming licenses. In addition, the bill provides that tax exempt business leagues, chambers of commerce, real estate boards and other similar organizations with the purpose of improving conditions in one or more types of businesses are eligible to obtain the annual door prize license. However, these organizations would not be eligible to obtain other types of charity gaming licenses. As with other charity gaming licenses, the bill provides for the fee for the annual door prize license to be set by the DOR. These provisions could potentially increase revenue from charity gaming license fees. However the impact is indeterminable.

*Background:* Current law permits a bona fide civic, educational, political, religious, senior citizens, or veterans organization to hold a charity gaming license for purposes of conducting charity gaming events. Current law for a door prize license, however, the license only applies to conducting one door prize event at a particular time and location. Allowable charity gaming events consist of bingo, charity nights, raffles, door prize events, festivals, and sale of pull tabs, punchboards, and tip boards. In FY 2004, 2,193 charity gaming licences were issued by the DOR resulting in about \$3.8 M in license fees. The Charity Gaming License Fee is based on the total gross revenue earned from charity gaming by a licensed organization. The initial license fee is \$25. The subsequent license fee can range from \$25 for organizations with less than \$15,000 in charity gaming gross revenue to \$25,000 for organizations with at least \$3.0 M in charity gaming gross revenue. In FY 2004, charity gaming events resulted in approximately \$538.8 M in gross revenue, with event expenses totaling about \$463.1 M. The net proceeds retained by the charitable organizations, or given to unrelated charitable organizations, totaled about \$75.8 M.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of State Revenue.

**Local Agencies Affected:**

**Information Sources:** Department of State Revenue. Indiana Department of Revenue, *Charity Gaming*

*Annual Report, November 1, 2004.*

**Fiscal Analyst:** Jim Landers, 317-232-9869.